

REMARKS

The applicant elects with traverse the claims of Group I (claims 1-24 and 27-31) and the claims of species a (claims 1-8, 25, 27, 31 in part, 32-35) for prosecution on the merits.

As a result of the restriction/election requirements, the applicant withdraws claims 9-26, 28, 29, 30 and 36-43 without prejudice to adding additional claims to inventions or species which are written in dependent form or otherwise include all of the limitations of an allowed generic claim, and to filing a divisional application at a later date directed to the subject matter of the withdrawn claims.

The examiner has stated that restriction under 35 U.S.C. 121 is required because the invention of claims 1-24 and 27-31 is distinct from that of claims 25-26 and 32-43. Applicant has withdrawn claims 25-26 and 36-43. The applicant has amended claim 32 to more clearly recite the components of the kit that is claimed in claims 32-35.

With respect to claims 32-35 applicant respectfully disagrees with the restriction requirement. The examiner states that "the primers of the kits (products) of invention (II) can be used to synthesize polypeptides. Thus the products (kits) of invention II are distinct from the process (methods) of invention (I)." Claims 32-35 are not directed to *primers*. Rather, the product claimed in claims 32-35 is a diagnostic kit.

The kit *as claimed* cannot be used to make polypeptides as it lacks components that are essential for the synthesis of polypeptides. For example, a nucleic acid amplification product produced by the kit claimed cannot be used to make polypeptide unless it is cloned into a protein expression vector and transfected into a suitable host, or unless it is transcribed into an RNA transcript which must then be translated into a polypeptide. The kit claimed does not include a protein expression vector and a suitable host, nor does it comprise components capable of generating an RNA transcript and of translating that transcript into a polypeptide. Thus the alternative use suggested by the examiner cannot be accomplished using the kit *that is claimed*. The applicant

submits that the examiner has not satisfied their burden under MPEP 806.05(h), and thus requests that this restriction requirement be withdrawn.

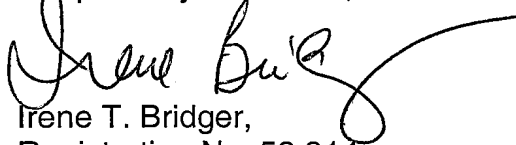
Claim 31 is directed to selecting individual livestock that have the "GG" genotype at the *CRH* gene *and* the "TT" genotype at the *POMC* gene. As this claim is directed to the determination of the genotype at the *CRH* gene, the applicant submits that this claim is not independent and distinct from species "a". The applicant respectfully traverses the requirement to elect only part of claim 31 for species "a", and submits that claim 31 in its entirety belongs in species "a".

Claims 1, 3 and 4 have been amended to more clearly define the invention for which protection is sought. Claims 7, 27 and 32 have been amended to correct obvious errors. No new subject matter has been added.

The applicant has added new claims 44 to 50 to diagnostic kits, which are similar to claims 32-35, but which comprise the additional limitation that the kits are used for practicing the method claimed in claim 1. No new subject matter has been added.

Favourable consideration is respectfully requested.

Respectfully submitted,


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